



COURT OF APPEALS

SANDEE BRYAN MARION
CHIEF JUSTICE
KAREN ANGELINI
MARIALYN BARNARD
REBECA C. MARTINEZ
PATRICIA O. ALVAREZ
LUZ ELENA D. CHAPA
IRENE RIOS
JUSTICES

FOURTH COURT OF APPEALS DISTRICT
CADENA-REEVES JUSTICE CENTER
300 DOLOROSA, SUITE 3200
SAN ANTONIO, TEXAS 78205-3037
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KEITH E. HOTTLE,
CLERK OF THE
COURT

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October 4, 2018

Scott F. Monroe
District Attorney, 198th District Court
402 Clearwater Paseo, Suite 500
Kerrville, TX 78028
* DELIVERED VIA E-MAIL *

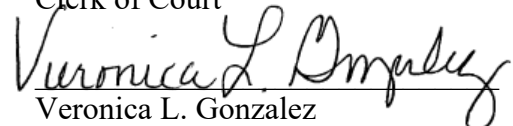
M. Patrick Maguire
M. Patrick Maguire, P.C.
945 Barnett St.
Kerrville, TX 78028
* DELIVERED VIA E-MAIL *

RE: Court of Appeals Number: 04-18-00649-CR
Trial Court Case Number: B15-684
Style: Kyle Dean Kuykendall
v.
The State of Texas

Enclosed please find the order which the Honorable Court of Appeals has issued in reference to the above styled and numbered cause.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,
KEITH E. HOTTLE,
Clerk of Court


Veronica L. Gonzalez
Deputy Clerk, Ext. 5-3220

cc: Honorable Rex Emerson (DELIVERED VIA E-MAIL)
Robbin Burlew (DELIVERED VIA E-MAIL)
Paula Beaver (DELIVERED VIA E-MAIL)



Fourth Court of Appeals
San Antonio, Texas

October 4, 2018

No. 04-18-00649-CR

Kyle Dean **KUYKENDALL**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 198th Judicial District Court, Kerr County, Texas
Trial Court No. B15-684
Honorable Rex Emerson, Judge Presiding

O R D E R

Initially, this court received a trial court certification stating that this was a plea bargain case and appellant had no right to appeal. We therefore order the trial court clerk to file, an electronic clerk's record containing the following documents:

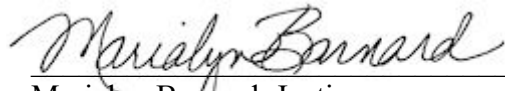
1. All pre-trial motions and the orders on those motions, if any;
2. All documents relating to the defendant's plea bargain, including the court's admonishments, the defendant's waiver and consent to stipulation of testimony, and any other stipulations;
3. The judgment;
4. All post-judgment motions and the orders on those motions, if any;
5. The notices of appeal;
6. The trial court's certification of defendant's right of appeal; and
7. The criminal docket sheet.

The trial court clerk complied with our order. However, upon review of the record, it did not appear that the trial court's certification comported with the documents in the record, i.e., it

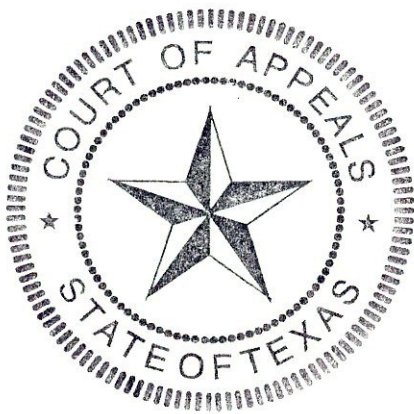
did not appear as if there was a plea bargain between the State and appellant. In an effort to help clarify the matter, we ordered the court reporter to file the reporter's record in this court on or before October 16, 2018. However, before the due date for the reporter's record, the trial court clerk filed a supplemental clerk's record, which contained an amended trial court certification stating this was not a plea bargain case and appellant has the right to appeal.


Accordingly, based on the foregoing, we lift the abatement relating to this matter and reinstate all deadlines. We **ORDER** the trial court clerk to file a supplemental clerk's record containing all documents required by Rule 34.5(a) — those that were not included in the previously filed clerk's record and supplemental clerk's record — in this court **on or before November 5, 2018**. See TEX. R. APP. P. 34.5(a). In addition, we remind the court reporter that pursuant to our prior order, **the reporter's record is due in this court on or before October 16, 2018**.

We **order** the clerk of this court to serve a copy of this order on the trial court, the trial court clerk, the court reporter, and all counsel.


Marialyn Barnard, Justice

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said court on this 4th day of October, 2018.




KEITH E. HOTTLE,
Clerk of Court